

UNITED STATES DISTRICT COURT

for the Western District Of Missouri

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CLERK U.S. DIST. COURT
WEST. DIST. OF MO.
KANSAS CITY, MO.

Division

Case No.

4:21-cv-601-DGK

(to be filled in by the Clerk's Office)

Jury Trial:

No

Jarrell DeAndre' Curne

Plaintiff(s)

-v-

The United States

Defendant(s)

COMPLAINT FOR A CIVIL CASE

I. The Parties to This Complaint

A. The Plaintiff(s)

Name	Jarrell DeAndre' Curne
Street Address	14919 Pine View Drive
City and County	Grandview, Jackson
State and Zip Code	Missouri, 64030
Telephone Number	913-215-8528
E-mail Address	db_fresh@icloud.com

B. The Defendant(s) And Service Pursuant to Rule 4

Defendant No. 1

Name	The United States
Job or Title <i>(if known)</i>	Government Agency
Street Address	400 East 9th Street (Room 5510)
City and County	Kansas City, Jackson
State and Zip Code	Missouri, 64106
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 2

Name	The United States of America
Job or Title <i>(if known)</i>	Government Agency
Street Address	555 Fourth Street, N.W.
City and County	Washington, D.C.
State and Zip Code	D.C., 20530
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 3

Name	The United States Attorney General
Job or Title <i>(if known)</i>	Government Agency
Street Address	950 Pennsylvania Ave, N.W.
City and County	Washington, D.C.
State and Zip Code	D.C., 20530
Telephone Number	
E-mail Address <i>(if known)</i>	

Defendant No. 4

Name	FBI CJIS Division Criminal History Analysis Team 1 BTC 3
Job or Title <i>(if known)</i>	Government Agency

Street Address	1000 Custer Hollow Road
City and County	Clarksburg, Harrison
State and Zip Code	WV, 26306
Telephone Number	
E-mail Address (if known)	

II. Basis for Jurisdiction

What is the basis for federal court jurisdiction?

U.S. Government Defendant

A. The Basis for Jurisdiction

18 U.S.C. 925A. Remedy for erroneous denial of firearm states any person denied a firearm pursuant to subsection (s) or (t) of section 922 (1) due to the provision of erroneous information relating to the person by any State of political subdivision thereof, or by the national instant primal background check system established under section 103 of the Brady Handgun Violence Prevention Act; or

(2) who was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922, may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be.

III. Statement of Claim

Review last paragraph of SB 26 - Exhibit A

This is being filed due to me being in fear of my life. I have heard stories of the FBI getting secret warrants to raid people for attempting to purchase weapons and I respect law enforcement and the job they do, I am to the best of my ability in every way possible trying to follow the law even though there are so many. I am not trying to be a vexatious Plaintiff, nor am I looking forward to any dispute with the FBI, I am actually doing everything in my power to prevent from violating any laws. I have a child who needs me, and I don't want 10 years in prison over trying to do the right thing. I seek to take a class, get a CCW license, to be in compliance with the law and read up on what it took, one of the requirements was a weapons test where you must make 20 out of 40 shots to get the Missouri permit. I don't have a weapon to take the class. I respect the judge, and refuse to lie, so I must admit In July of 2021 the Plaintiff Jarrell DeAndre' Curne went into Academy Sports, in Liberty Missouri after finding a Gen5 Glock 27 .40 cal online, and attempted to purchase it. After a National Instant Criminal Background Check System denied me, the store gave me a NTN # of 1023D5SDW and I contacted the FBI. I provided fingerprints through the United States Post Office after paying \$50. I was told that I had a prior felony which prevented me from purchasing a Glock 27. I immediately challenged the FBI using the system they have set up and provided copies of a Order for expungement obtained through a attorney named Travis Strobach in St. Louis. The FBI denied my challenge, and VAF request and I have exhausted every option. They sent two letters, in the second they state they won't respond to me again, and as such I am forced to bring a action under 18 U.S.C. 925A. This is not a action about the expungement rather the restoration of rights that the FBI refuses to acknowledge which is a violation of my civil rights. Order and letters are attached as evidence.

Pursuant to Missouri Statute 610.140 (8). The order shall not limit any of the petitioner's rights that were restricted as a collateral consequence of such person's criminal record, and such rights shall be restored upon issuance of the order of expungement. Except as otherwise provided under this section, the effect of such order shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place. No person as to whom such order has been entered shall be held thereafter under any provision of law to be guilty of perjury or otherwise giving a false statement by reason of his or her failure to recite or acknowledge such arrests, pleas, trials, convictions, or expungement in response to an inquiry made of him or her and no such inquiry shall be made for information relating to an expungement, except the petitioner shall disclose the expunged offense, violation, or infraction to any court when asked or upon being charged with any subsequent offense, violation, or infraction.

The part of 610.140 that states "... and such rights shall be restored upon issuance of the order of expungement," lifted the federal ban due to the restoration of all civil rights, therefore there are no restrictions to me owning a firearm. Particularly the part "...the effect of such order shall be to restore such person to the status he or she occupied prior..." which means prior to the possession Jarrell Curne was not under a federal firearms ban, and is not currently now under one either.

On the website www.justice.gov under archives 1435. Post-Conviction Restoration of Civil Rights a frequently litigated issue under 922(g)(1) is whether a convicted felon is exempt from the prohibitions of the statute because of a post-conviction restoration of civil rights under State law. In accordance with 18 U.S.C. 921(a)(20), a conviction does not disqualify an individual from possessing firearms if the person convicted "has had civil rights restored." In 922(g)(1) cases based upon a State felony conviction, courts have uniformly looked to the law of the State where the conviction was obtained to determine whether the defendant's civil rights have been restored and whether such action has nullified the convictions's incidental prohibition on firearms possession. This was not a Federal felony conviction.

The Criminal Division takes the position that where State law contains any provision purporting to restore civil rights- - either upon application by the defendant or automatically upon the completion of a sentence - - it should be given effect. It is not necessary that the State issue an individualized certificate reflecting the judgment of State officials regarding an individual defendant. A State restoration document that is absolute on its face should disqualify the affected State felon from prosecution under 922(g)(1) unless the facts of the case strongly support a finding that the felon had actual notice of his/her continuing State firearms disability despite the terms of the restoration document. [cited in JM 9-63.500]

In the case of Jarrell DeAndre' Curne, I had no notice of a continuing State firearms ban, until the denial from the FBI NICS who is only applying a portion of the law that fits them best, and not taking into account the full law. 922(g)(1) says it shall be unlawful for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

The issue with this is 610.140(8) states the effect of such order shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place. Thus, as the justice department website states a conviction does not disqualify an individual from possessing firearms if the person convicted "has had civil rights restored." 610.140(8) clearly has restored those civil rights. A conviction being treated as if event had never taken place does not qualify as a prohibitor when rights have been restored.

921(a)(20) the term "crime punishable by imprisonment for a term exceeding one year" does not include - (B) any State offense classified by the laws of the State as a misdemeanor and punishable by a term of imprisonment of two years or less.. however law.cornell.edu states What constitutes a conviction of such a crime shall be determined in accordance with the law of the jurisdiction in which the proceedings were held. Any conviction which has been expunged, or set aside or for which a person has been pardoned or has had civil rights restored shall not be considered a conviction for purposes of this chapter, unless such pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess,

Or receive firearms.

In the case of Jarrell DeAndre' Curne his expungement, and restoration of civil rights does not expressly provide that he may not ship, transport, possess, or receive firearms.

In the letter the FBI referenced 921(a)(33) pursuant to (B)(ii) a person shall not be considered to have been convicted of such an offense for purposes of this chapter, if the conviction has been expunged or set aside, or is an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms... this does not apply to Jarrell DeAndre' Curne who has provided a order that does not expressly provide that.

Jarrell DeAndre' Curne maintains 610.140(8) has restored all his rights as the law expressly stated.

The FBI is misusing Wyoming ex rel. Crank v. United States, in which the 10th Circuit Court of Appeals concluded that Congress intended "expunged" to require that a state procedure completely remove the effects of the conviction in question. However, this is about restoration of rights, not what the word expunged was intended to mean.

The FBI is incorrectly verifying dates of Arrest : August 3, 2009 in Missouri, and December 15, 2011 in Kansas. They are are using potential arrest information on the Kansas State record for the arrest date of July 31, 2009. All arrest records have not only been expunged, regardless of what the word means, but also a restoration of all rights has been Ordered by a judge who the FBI is overruling without authority.

Convictions, not arrest dates are supposed to prevent felons from being in possession, and Jarrell Curne is not convicted of anything as the State of Missouri are treating the event as if it never took place due to the order of a judge. I contacted the state of Kansas and Missouri attorney generals who referred me to the laws, and stated I should attempt to get the permit regardless of what the FBI is saying and certify in good faith I am not a felon, because I am not. Regardless of the word "expunged" means, restoration of rights has been GRANTED under the Order.

The FBI also mentions K.S.A. 21-6304(a)(3) this deals with Murder, Rape, Robbery, Assault, batteries, manslaughter and kidnappings, none of which Jarrell DeAndre' Curne was ever convicted of. Felony under K.S.A. 2020 Supp. 21-5402 Murder in the first degree, (a) murder in the first degree is the killing of a human being committed: (2)in the commission of, attempt to commit, or flight from any inherently dangerous felony. (1) any of the following felonies, whether such felony is so distinct from the homicide alleged to be a violation of subsection (a) (2) as not to be an ingredient of the homicide alleged to be a violation of subsection (a)(2) it goes on to mention (R) fleeing or attempting to elude a police officer, as defined in K.S.A. 8-1568(b), but this was not done distinct from any homicide, or a ingredient of any homicide.

Jarrell DeAndre Curne has not murdered anyone, or been convicted of murder and they are using this as a basis to deny my purchase. That law use to state you are a criminal in possession of a weapon by a convicted felon if within the preceding 10 years, has been convicted of a felony under K.S.A. 2020 Supp. 21-5402 Murder in the first degree while or after (R) fleeing or attempting to elude a police officer, as defined in K.S.A. 8-1568(b). Murder is very serious, and I have not murdered, raped, robbed, assaulted, or been convicted of battery, manslaughter, or kidnapping anyone, and I never will. Furthermore, that law states "... and has not had the conviction of such crime expunged or been pardoned for such crime. The provisions of subsection (j)(2) of K.S.A. 2020 Supp. 21-6614, and amendments thereto, shall not apply to an individual who has had a conviction under this paragraph expunged.

House Bill No. 2058 in Kansas bottom of page 13, top of 14 states, " Subject to the disclosures required pursuant to subsection (i) in any application for employment, license or other civil right or privilege, or any appearance as a witness, a person whose arrest records, conviction or diversion of a crime has been expunged under this statute may state that such person has never been arrested, convicted or diverted of such crime. A person whose arrest record, conviction or diversion of a crime that resulted in such person being prohibited by state or federal law from possessing a firearm has been expunged under this statute shall be deemed to have had such person's right to keep and bear arms fully restored. This restoration of rights shall include, but not be limited to, the right to use, transport, receive, purchase, transfer and possess firearms. The provisions of this paragraph shall apply to all orders of expungement, including any orders issued prior to July 1, 2021."

Kansas Statute 8-254 deals with Mandatory revocation of driver's license by division of vehicles; exceptions for court imposed restrictions. (7) fleeing or attempting to elude a police officer as provided in K.S.A. 8-1568, and amendments thereto, or conviction of violation of an ordinance of any city or a law of another state which is in substantial conformity with such statute. This is totally different then applying it in a situation where Homicide resulted during or after, which it did not.

In any case House Bill No. 2058 amendments made to the provisions of K.S.A. 2020 Supp. 21-6304 and 21-6614 by this act known as the Kansas protection of firearms rights act, has restored the rights to use, transport, receive, purchase, transfer, and possess firearms. This along with the Missouri Statute 610.140 (8). The order shall not limit any of the petitioner's rights that were restricted as a collateral consequence of such person's criminal record, and such rights shall be restored upon issuance of the order of expungement. Except as otherwise provided under this section, the effect of such order shall be to restore such person to the status he or she occupied prior to such arrests, pleas, trials, or convictions as if such events had never taken place means that I have been erroneously denied a purchase of a firearm when rights have been restored under the guise of what the word "expunged" means, restoration of rights, means just that. My rights have been restored, and that only means one thing. Under 18 U.S.C. 925A I was not prohibited from receipt of a firearm pursuant to subsection (g) or (n) of section 922, and I may bring an action against the State or political subdivision responsible for providing the erroneous information, or responsible for denying the transfer, or against the United States, as the case may be, for an order directing that the erroneous information be corrected or that the transfer be approved, as the case may be.

To succeed under 18 U.S.C. 921 (a)(33)(3) the conviction can not have been expunged or set aside, or be an offense for which the person has been pardoned or has had civil rights restored (if the law of the applicable jurisdiction provides for the loss of civil rights under such an offense) unless the pardon, expungement, or restoration of civil rights expressly provides that the person may not ship, transport, possess, or receive firearms. The issue of restoration of civil rights must be carefully researched for each potential defendant.

House Bill SB 20 signed by Missouri, you also restores rights.

IV. Relief

Wherefore Plaintiff ask court to issue order in favor of Plaintiff directing the transfer be approved, and that Jarrell DeAndre' Curne be entered into a VAF (Voluntary Appeal File) due to his rights being restored under Missouri Statute 610.140(8) and Kansas House Bill 2058 bottom of page 13, top of page 14. I am not asking for any money, just a Order. The FBI ended the letter by saying “ .. not permitted to give legal advice regarding ways to get your firearm rights back, but you may infer with an attorney of your own choosing to determine what remedies may potentially be available to you.” The only remedy available is under 18 U.S.C. 925A. for erroneous denial of firearm. My rights have been restored. The Glock G27 Gen5 is no longer available at any Academy Stores, and has since sold out. The Order is needed for future purchases, and to obtain a different firearm that they have in stock which is my right to do after the restoration of my rights in both 610.140(8) and House Bill 2058 page 13-14. I have paid the \$400 fee required to the Federal District Court to file this complaint. I am not harassing the FBI, they are the most powerful agency in the world and can ruin my life in the blink of an eye, I am not causing unnecessary delays, I have tried for over a month to correct the issue of being denied, by providing proof of my restored rights twice to the FBI who ignores the restoration of rights, and focuses on what a word means instead. That word, has nothing to do with rights, which have been restored. A order, is a order. A order, means a court document from a judge with a specific thing to be done, and can't be twisted to mean something else. I have two court orders, which restored my rights. I now need a third order to uphold those rights. Under 18 U.S.C. 921(a)(20), a felony conviction does not prevent you from possessing a firearm if your civil rights have been restored or your conviction has ben vacated. To restore your civil rights, however, you don't go to federal court. You go to state court. The state of Missouri, and state of Kansas have both elected to restore the rights of Jarrell DeAndre Curne, judges orders rather you want to call them expungements or not lift the effect of the federal ban.

A citizen should not be put to the trouble of suing his own government in order to exercise a constitutionally protected right which is in no way impaired. Yet there have been many thousands of civil-rights cases filed against the government for various invasions of citizens rights, so we should not be surprised.

One lawyer has achieved success for his clients using this strategy. In his cases, after he filed the lawsuit in federal court, the NICS appeals filed by his clients magically received approval from NICS. The lawsuits became moot. It makes sense: the government would have lost the cases, setting a poor precedent for NICS.

In suits against federal agencies, or federal employees acting in their official capacity, US attorneys evaluate whether there is a basis for a compulsory counterclaim or a separate suit on behalf of the defendant agency or other federal agency. Such action is filed in the name of the United States and filed only with the prior approval of the Assistant Attorney General for the Environment and Natural Resources Division.

I, Jarrell DeAndre' Curne, am now afraid for my life that they will try to file a retaliatory action against me. I request for the United States, Attorney General's, and the ENRD not to take adverse action against me because of my bringing a claim under 18 U.S.C. 925A. I didn't ask for any money, only for my restoration of rights to be respected.

V. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: August 18, 2021

Signature of Plaintiff



Printed Name of Plaintiff

Jarrell DeAndre' Curne